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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/855,087	05/14/2001	Frank Venegas JR.	IDS-14102/14	8632

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EXAMINER

DAVIS, CASSANDRA HOPE

ART UNIT PAPER NUMBER

3611

DATE MAILED: 06/18/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/855,087

Applicant(s)

VENEGAS, FRANK

Examiner

Cassandra Davis

Art Unit

3611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 March 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 7-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 7-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 2, and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Garfinkle, U. S. Patent 4,777,750. Garfinkle teaches a frame system comprising a cylindrical sleeve and a frame. The sleeve comprises an interconnecting hollow stem 8, cap 7, and adaptor 5, wherein the adaptor 5 provides the closed top for the stem. The stem can be telescopically engaged with a smaller diameter stem 9. The upper portion of the sleeve is adapted to hold the frame 3 with message bearing panel (not labeled). The frame and panel have a height less than the height of the sleeve.

Although claim 1 recites that the message bearing panel is integrally formed with the sleeve using a molding process, it has been held that the term "integral" is sufficiently broad to embrace constructions united by such means as fastening and welding. *In re Hotte*, 177 USPQ 326, 328 (CCPA 1973). In addition, the method limitation drawn to the molding process has not been given patentable weight in the product or article claim.

3. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Plantinga, U. S. Patent 3,986,284. Plantinga teaches an information box adapted to be attached to an existing post 1, comprising a cylindrical sleeve 6 having a plate 10 to

Art Unit: 3611

closed the top end and a indicating panel 11 secured to the plate 10. The indicating panel has a height less than the height of the sleeve.

Although claim 1 recites that the message bearing panel is integrally formed with the sleeve using a molding process, it has been held that the term "integral" is sufficiently broad to embrace constructions united by such means as fastening and welding. *In re Hotte*, 177 USPQ 326, 328 (CCPA 1973). In addition, the method limitation drawn to the molding process has not been given patentable weight in the product or article claim.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 5 and 8-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Garfinkle.
2. With respect to claim 5 and 8, since the applicant does not disclose that a sleeve having an inner diameter in the range of 2 to 8 inches solves any stated problem or is for any particular purpose, it appears the constructing the sleeve of any suitable diameter would have performed equally well.

With respect to claim 10 and 11, since the indicia or message on the system does not have an unobvious function relationship with respect to the panel, the specific message has not be given patentable weight.

Art Unit: 3611

3. Claims 5, 8, and 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Plantinga.

4. With respect to claim 5 and 8, since the applicant does not disclose that a sleeve having an inner diameter in the range of 2 to 8 inches solves any stated problem or is for any particular purpose, it appears the constructing the sleeve of any suitable diameter would have performed equally well.

With respect to claim 10 and 11, since the indicia or message on the system does not have an unobvious function relationship with respect to the panel, the specific message has not be given patentable weight.

5. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Garfinkle in view of Shuman, U. S. Patent 4,329,800. Shuman teaches a display device comprising a display frame 10, an upper support rod 22, a hollow tube 24, and a base. The frame, rod, tube, and base are made of any suitable plastic material, wherein the frame and base can be molded. It would have been obvious to one having ordinary skill in the art at the time this invention was made to construct the device taught by Garfinkle of a plastic or polymeric material as taught by Shuman to provide a light weight and less costly display device.

6. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Plantinga in view of Shuman, U. S. Patent 4,329,800. Shuman teaches a display device comprising a display frame 10, an upper support rod 22, a hollow tube 24, and a base. The frame, rod, tube, and base are made of any suitable plastic material, wherein the frame and base can be molded. It would have been obvious to one having ordinary skill

Art Unit: 3611

in the art at the time this invention was made to construct the device taught by Plantinga of a plastic or polymeric material as taught by Shuman to provide a light weight and less costly display device.

7. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Garfinkle in view of Grammas et al., U. S. Patent 4,772,869. Grammas teaches a communication apparatus 102 comprising a stand 26 and sign 103 holder adapted to support printed matter in the form of decals that have vivid illustrations and explanatory copy. It would have been obvious to one having ordinary skill in the art at the time this invention this invention was made to provide the sign taught by Garfinkle with a decal as taught by Grammas to provide a means to display information.

8. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Plantinga in view of Grammas et al., U. S. Patent 4,772,869. Grammas teaches a communication apparatus 102 comprising a stand 26 and sign 103 holder adapted to support printed matter in the form of decals that have vivid illustrations and explanatory copy. It would have been obvious to one having ordinary skill in the art at the time this invention this invention was made to provide the sign taught by Plantinga with a decal as taught by Grammas to provide a means to display information.

Response to Arguments

9. Applicant's arguments filed 3/26/03 have been fully considered but they are not persuasive.

10. With respect to claim 1, the applicant argues that claim 1 recites that the device is not only includes integral formation, but the use of a mold process for doing so. The

Art Unit: 3611

applicant contends that this limitation precludes construction united by such means as fastening and welding.

11. The examiner contends that the method limitation of molding has not been given patentable weight because the claim is drawn to the product or article, namely the stanchion cover and signage system. The claim is not drawn to the method a making. Since Plantinga and Garfinkle both show the panel mechanically connected to the post, the examiner contends limitation of the claimed invention has been met. In addition, the applicant does not specifically recite that the post and panel are of a one piece or unitary construction.

With respect to claim 8, the applicant argues that the combined sleeve and sign holder is specifically intended to cover an outside post/stanchion, the diameters of which are typically in the range of 2-8 inches. Therefore, the stated purpose of the claimed dimension is explicit.

The examiner contends that Plantinga clearly teaches a sleeve adapted to receive an existing bus stop post. The examiner contends that it would have been obvious to construct the diameter of the sleeve a suitable dimension to cover the existing post.


With respect to claim 10, having various indicia on a sign or placard to convey information is well known in the art. The specific indicia presented on the sign is considered to be a design consideration.

Art Unit: 3611

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cassandra Davis whose telephone number is 703-308-2223. The examiner can normally be reached on Monday-Friday 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on 703-308-0629. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7687 for regular communications and 703-305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-2168.


Cassandra Davis
Primary Examiner
Art Unit 3611

CE
June 10, 2003